

FILED

APR 19 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARLOS ENRIQUE BARRERA,

Defendant - Appellant.

No. 05-50864

D.C. No. CR-05-00332-FMC-01

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Florence Marie Cooper, District Judge, Presiding

Submitted April 10, 2006^{**}

Before: KOZINSKI, RYMER and PAEZ, Circuit Judges.

A review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

05-50864

standard). The Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), remains binding on this court until the Supreme Court overrules it. *See United States v. Pacheco-Zepada*, 234 F.3d 411, 414 (9th Cir. 2000).

Accordingly, we grant the government's motion for summary affirmance.

All pending motions are denied as moot.

AFFIRMED.